

SERVED: June 27, 2008

NTSB Order No. EA-5392

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Issued under delegated authority (49 C.F.R. § 800.24)
on the 27th day of June, 2008

_____)	
ROBERT A. STURGELL,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-17547
v.)	
)	
TOMMY HUE NIX,)	
)	
Respondent.)	
_____)	

ORDER DENYING STAY

Respondent has requested a stay of an order on remand issued by Administrative Law Judge William A. Pope, II, served March 25, 2008, pending disposition of a petition for review of that order filed in the United States Court of Appeals for the Fifth Circuit. In NTSB Order No. EA-5374, the Board remanded the case to the law judge for further findings and explanation. The law judge had earlier dismissed the Administrator's order suspending respondent's commercial pilot certificate for violations of the Federal Aviation Regulations regarding air carriers and operations for compensation or hire under Title 14 C.F.R. parts 119 and 135. The Administrator's suspension order also alleged a violation of § 91.17(b), operating a flight with persons who appeared to be intoxicated.

The Administrator did not appeal the law judge's dismissal of the part 119 and 135 allegations, but did appeal the dismissal of the § 91.17(b) allegation. On remand, the law judge affirmed the Administrator's allegation regarding the carrying of

intoxicated passengers, and reduced the originally sought sanction from a 180-day suspension to one of 30 days.

The Administrator opposes respondent's request for a stay of the order. The Board denies respondent's request.

The Board's rules of practice state that the law judge's initial decision or appealable order becomes final with respect to the parties if no appeal from the initial decision or order is timely filed. See § 821.43. Thereafter, no request for stay pending judicial review will be entertained if it is received after an order's effective date. See § 821.64(b).

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's request for a stay of the 30-day suspension ordered by the law judge in his order on remand is denied.

Gary L. Halbert
General Counsel